

# **Exhibit 40**

**Declaration of Ryan D. Walters**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

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STATE OF TEXAS, ET AL.;

*Plaintiffs,*

*v.*

UNITED STATES OF AMERICA, ET AL.;

*Defendants,*

*and*

KARLA PEREZ, ET AL.;

STATE OF NEW JERSEY,

*Defendants-Intervenors.*

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Case No. 1:18-cv-00068

**DECLARATION OF RYAN D. WALTERS**

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am Special Counsel for the Special Litigation Division at the Office of the Texas Attorney General, counsel to the Plaintiff States in above-captioned matter. I am over age 18 and competent to make this declaration. The facts set forth in this Declaration are based on my personal knowledge, and I would testify to these facts in open court if called upon to do so. This Declaration is submitted in support of Plaintiff States’ Motion for Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and correct copy of Memorandum from Janet Napolitano, former Secretary of Homeland Security, titled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (June 15, 2012) (“DACA Memo”).

3. Attached hereto as Exhibit 2 is a true and correct copy of Federal Defendants’ Revised Response to Defendant-Intervenors’ Revised Discovery Request (Nov. 8, 2019).

4. Attached hereto as Exhibit 3 is a true and correct copy of U. S. Citizenship and Immigration Services Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, Fiscal Year 2012-2017.

5. Attached hereto as Exhibit 4 is a true and correct copy of U.S. Citizenship and Immigration Services, DACA Frequently Asked Questions (March 8, 2018).

6. Attached hereto as Exhibit 5 is a true and correct copy of U.S. Dep't of Homeland Security, DACA National Standard Operating Procedures (2013).

7. Attached hereto as Exhibit 6 is a true and correct copy of Immigrant Legal Resource Center, Practice Advisory: DACA, Advance Parole, and Family Petitions (June 2016).

8. Attached hereto as Exhibit 7 is a true and correct copy of Letter from USCIS to Hon. Charles E. Grassley, Chairman, Committee on the Judiciary (June 29, 2016).

9. Attached hereto as Exhibit 8 is a true and correct copy of Memorandum from Jeh Charles Johnson, former Secretary of Homeland Security, titled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents" (Nov. 20, 2014) ("DAPA Memo").

10. Attached hereto as Exhibit 9 is a true and correct copy of U.S. Department of Justice, Memorandum Opinion for the Secretary of Homeland Security and the Counsel to the President (Nov. 19, 2014) ("OLC Memo").

11. Attached hereto as Exhibit 10 is a true and correct copy of Memorandum from John F. Kelly, former Secretary of U.S. Department of Homeland Security, titled "Rescission of November 20, 2014 Memorandum Providing for Deferred Action for Parents of Americans and Lawful Permanent Residents" (June 15, 2017) ("DAPA Rescission Memo").

12. Attached hereto as Exhibit 11 is a true and correct copy of Letter from Ken Paxton, Texas Attorney General, and ten other states, to Hon. Jeff Sessions, former U.S. Attorney General, urging the Trump Administration to phase out DACA (June 29, 2017).

13. Attached hereto as Exhibit 12 is a true and correct copy of Letter from Hon. Jeff Sessions, former U.S. Attorney General, to Elaine C. Duke, Acting Secretary of U. S. Department of Homeland Security, advising that DHS should rescind the 2012 DACA Memo (Sept. 4, 2017).

14. Attached hereto as Exhibit 13 is a true and correct copy of Memorandum from Elaine C. Duke, Acting Secretary of U. S. Department of Homeland Security, titled “Rescission of the June 15, 2012 Memorandum Entitled ‘Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children’” (Sept. 5, 2017) (“DACA Rescission Memo”).

15. Attached hereto as Exhibit 14 is a true and correct copy of Declaration of Donald Deere, Ph.D. (Apr. 27, 2018).

16. Attached hereto as Exhibit 15 is a true and correct copy of Deposition of Ike Brannon (June 26, 2018) (excerpts).

17. Attached hereto as Exhibit 16 is a true and correct copy of Brief of *Amici Curiae* Texas Association of Business, et al., ECF No. 221-1 (July 21, 2018).

18. Attached hereto as Exhibit 17 is a true and correct copy of Brief of *Amici Curiae* 114 Companies, ECF No. 204-1 (July, 21, 2018).

19. Attached hereto as Exhibit 18 is a true and correct copy of Brief of *Amici Curiae* New Jersey Businesses, ECF No. 192-1 (July 20, 2018).

20. Attached hereto as Exhibit 19 is a true and correct copy of Deposition of Esther Jeon (June 15, 2018) (excerpts).

21. Attached hereto as Exhibit 20 is a true and correct copy of Declaration of Rose Arackathara (May 18, 2018).

22. Attached hereto as Exhibit 21 is a true and correct copy of Deposition of Rose Arackathara (June 18, 2018) (excerpts).

23. Attached hereto as Exhibit 22 is a true and correct copy of Supplemental Declaration of Donald Deere, Ph.D. (June 15, 2018).

24. Attached hereto as Exhibit 23 is a true and correct copy of Deposition of Leighton Ku (June 27, 2018) (excerpts).

25. Attached hereto as Exhibit 24 is a true and correct copy of Declaration of Meg Wiehe and Misha Hill (June 15, 2018).

26. Attached hereto as Exhibit 25 is a true and correct copy of Deposition of Ray Perryman (June 27, 2018) (excerpts).

27. Attached hereto as Exhibit 26 is a true and correct copy of Declaration of Tom K. Wong (May 16, 2018).

28. Attached hereto as Exhibit 27 is a true and correct copy of Declaration of Monica Smoot (Apr. 9, 2018).

29. Attached hereto as Exhibit 28 is a true and correct copy of Declaration of Leonardo R. Lopez (Apr. 26, 2018).

30. Attached hereto as Exhibit 29 is a true and correct copy of Ray Perryman, Estimated Annual Net Fiscal Benefits of DACA Recipients in Texas.

31. Attached hereto as Exhibit 30 is a true and correct copy of Declaration of Leighton Ku, Ph.D., MPH (June 15, 2018).

32. Attached hereto as Exhibit 31 is a true and correct copy of Results from Tom K. Wong et al., 2017 National DACA Study (excerpts).

33. Attached hereto as Exhibit 32 is a true and correct copy of Declaration of Lloyd B. Potter, Ph.D. (Apr. 26, 2018).

34. Attached hereto as Exhibit 33 is a true and correct copy of Email from Tyronda Lee, Section Chief, U.S. Citizenship and Immigration Services, to Brandon Robinson (May 8, 2018 12:09 CST).

35. Attached hereto as Exhibit 34 is a true and correct copy of Deposition of Stephen Legomsky (Aug. 1, 2018) (excerpts).

36. Attached hereto as Exhibit 35 is a true and correct copy of Declaration of Susan Bricker (Jan. 18, 2023).

37. Attached hereto as Exhibit 36 is a true and correct copy of Declaration of James Terry (Jan. 9, 2023).

38. Attached hereto as Exhibit 37 is a true and correct copy of Advisory by U.S. Department of Homeland Security, titled “DHS Issues Regulation to Preserve and Fortify DACA” (Aug. 24, 2022).

39. Attached hereto as Exhibit 38 is a true and correct copy of U.S. Citizenship and Immigration Services, DACA Frequently Asked Questions (Nov. 3, 2022).

40. Attached hereto as Exhibit 39 is a true and correct copy of U.S. Citizenship and Immigration Services’s Count of Active DACA Recipients by Month of Current DACA Expiration as of Sept. 30, 2022.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on January 31, 2023.

/s/ Ryan D. Walters  
RYAN D. WALTERS

#### **CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2023, I electronically filed the foregoing document through the Court’s ECF system, which automatically serves notification of the filing on counsel for all parties.

/s/ Ryan D. Walters  
RYAN D. WALTERS